

## Chehalis River Basin Flood Authority

**Business Meeting – 1:30 p.m.**

Montesano City Hall  
112 N. Main St.  
Montesano, WA

### **March 15, 2012 – Meeting Notes**

**Board Members Present:** Ken Estes, City of Montesano; Vickie Raines, City of Montesano/Cosmopolis; Ron Averill, Lewis County Commissioner; Dan Thompson, City of Oakville; Alan Carr, Town of Bucoda; Terry Willis, Grays Harbor County Commissioner; Jim Cook, City of Aberdeen; Karen Valenzuela, Thurston County Commissioner; Edna Fund, City of Centralia; Julie Balmelli-Powe, City of Chehalis; J. Vander Stoep; Town of Pe Ell

**Others Present:** Please see sign-in sheet

#### **Handouts/Materials Used:**

- Agenda
- Meeting Notes from February 16, 2012
- Proposed Flood Relief Projects
- Memo: Skookumchuck Model Update
- Memo: Newaukum Model Extension Update
- WEST Update, March 2012
- Anchor QEA Update on Fish Impact Study and Enhancement Plan
- Draft OFM and Lewis County Revised Contract

#### **1. Call to Order**

Chairman Raines called the meeting to order at 1:32 p.m. Self-introductions were made by all attending.

#### **2. Approval of Agenda**

Chairman Raines asked to add an item under 7b: Action on OFM contract. Commissioner Averill moved to approve the agenda with the change; Mr. Cook seconded. The motion carried.

#### **3. Approval of Meeting Notes from February 16, 2012**

Commissioner Averill moved to approve the meeting notes; Ms. Fund seconded. The motion carried.

#### **4. Public Comment**

Mr. Frank Chestnut asked if he could comment during Item 6. The Chair agreed. No one else wished to speak.

#### **5. Reports**

##### *a. Chair's Report*

Chairman Raines stated the training workshop held at the Chehalis Tribal Center in February was closed to the public and that tribal members did not attend. The training can be open to the public; however this training was by special arrangement and paid for by the Flood Authority. She stated it was not the

intent to keep anything from the public; there were no action items or voting at the workshop. She apologized for not allowing the public and media to attend and stressed that it would not happen again as long as she is Chair.

*b. Correspondence*

The Chair stated there were a lot of letters and emails regarding Flood Authority membership. These will be discussed under Item 6.

Commissioner Averill stated there was correspondence from Dean Dahlin who is a long-time weather forecaster for KMNT/KELA. The email was about evaporation in tree canopies and Commissioner Averill encouraged everyone to read it.

*c. Member Reports*

Lewis County: Commissioner Averill stated he and Ms. Fund accompanied the State Conservation Commission on a tour of the 2007 flood area to see the problems that were created and the progress being made to clean it up. When the capital budget legislation came out it did not identify any NRCS (National Resources Conservation Service) projects and those were subsequently approved in another piece of legislation. They wanted to look at the affected area and Dave Fenn hosted the tour. The NRCS is supportive of the efforts of the Flood Authority. Some conservation commission projects are already being worked on and they should be added to the project list. The group talked to dairymen about critter pads and there is interest regarding farm animals. Until there is some type of mechanism to keep farm lands from flooding, critter pads would be a good thing to look at.

Oakville: Mr. Thompson stated he spoke at the council meeting about the work sessions scheduled for May and some of the councilors were concerned if there would ever be an OFM report. He could not answer their question about what the Flood Authority will end up with.

Grays Harbor County: Commissioner Willis has been busy with the project committee and she complimented Greg on his report earlier. She has been corresponding with Mark White and the Tribe about the project matrix.

Thurston County: Commissioner Valenzuela stated she participated with Bucoda about the ongoing conversation regarding Flood Authority membership.

Centralia: Ms. Fund stated during the conservation tour they were able to see where the USGS gage was taken out. She reported that Centralia is looking at a place to start the HUB City Community Gardens. The Outreach and Education Committee has been busy with the website and she appreciated the input from Mr. Vander Stoep on the FAQs. She was also part of the sounding board with WSDOT and Mr. Gernhart on the potential project for I-5.

Napavine: Mr. Pinn stated Napavine has named an alternate to the Flood Authority, who is Mr. Richard Rouse.

*d. State Team Report*

Mr. Gernhart stated there is an updated WSDOT process in scoping alternate projects for the I-5/airport/hospital access. There have been two meetings and today he met with the hydraulics folks and they will model different aspects of the project. Information from the airport board can be used for

their work and there was discussion about different issues and areas that are more sensitive than others.

## **6. Discussion: Flood Authority Membership**

Chairman Raines stated Mayor Estes would represent Montesano during the discussion and asked Coordinator Lara Fowler to facilitate this portion of the meeting.

Mr. Fowler stated at the January meeting the members agreed that it was important to talk about issues and discuss them. The members talked through the bylaws which they found confusing and contradictory regarding Roberts Rules of Order, consensus and voting. There have been struggles with making a motion and there was discussion about asking questions, discussing those, summarizing and then giving thumbs up, thumbs down, or thumbs sideways. It was agreed that this method would be used. She asked that during the discussion that was to follow to have one person at a time speak, and that everyone would be allowed to talk through what was on their minds and be willing to explore and explain what they are thinking about.

Ms. Fowler summarized how this discussion came about. Napavine and Cosmopolis requested participation in the Flood Authority during the meeting in November in Bucoda. A motion cut off the discussion and the Flood Authority recommended that both cities be accepted under the ILA, which requires unanimous action to modify. Based on the frustrations at the November and December meetings on this subject, staff recommended revisiting the discussion in January. At the January meeting, the Board talked about consensus and raised questions about adding those cities. Following that meeting Commissioner Valenzuela was going to ask the other Thurston County Commissioners to discuss it. Commissioner Willis was unable to attend that meeting, so Ms. Fowler and Chair Raines followed up with her to answer questions.

On January 26, the Town of Bucoda sent a letter of withdrawal from the Flood Authority with a 30-day notice. In February the recommendation was to prepare a new ILA with a place for Napavine and Cosmopolis signatures and memorializing Bucoda's withdrawal. Subsequently, Bucoda has withdrawn its withdrawal letter.

Ms. Fowler summarized what she had been hearing overall: that people want to deal with the flooding issue. The question then becomes how does the Authority bring people to the table in a constructive way and how does it implement the membership questions? There are three topics for today's discussion: 1 – What happened on the Bucoda side? 2 – There is a pending question about Napavine's and Cosmopolis' membership; 3 – There is a question of membership in general. For example, people have raised the questions of how many is too many; how do you have the right people at the table.

Ms. Fowler then asked the Flood Authority members to give their perspective, and asked Mayor Carr to speak first.

Mayor Carr stated that the Bucoda Town Council had a discussion and a motion was made to withdraw from the Flood Authority. The reasons were that Bucoda did not feel it was being heard and there were questions in regards to a study where the Flood Authority would become a flood district that would include 3 counties and 2 cities. Bucoda felt that by adding two new members to the Authority it would not move further ahead because of the conflict between members. The council voted 4 to 1 for withdrawal.

Mr. Alan Vannell, Bucoda Mayor Pro Tem, stated the Tribe's letter echoed Bucoda's thoughts on not being heard. The feeling was that the dam was the primary project and any projects that were mentioned in 2008 seemed to be gone. Bucoda's representative never heard about anything happening in the community and the council decided the proper thing to do was withdraw. There was interest in why Bucoda should stay. Commissioner Valenzuela talked to the council and convinced the Mayor that Bucoda should come back. Chairman Raines and Commissioner Valenzuela attended a council meeting and the council changed its vote. It wanted to stay. The issue of Napavine and Cosmopolis joining the Board was discussed and the council voted no.

After that meeting, Ms. Fowler called and talked to Mr. Vannell and he now understands how the Flood Authority works and that a unanimous agreement is required to modify the interlocal agreement. He suggested an emergency meeting and at that meeting Ms. Fowler and Commissioner Valenzuela talked to the council again. Mr. Vannell was swayed; the others were not. They felt that municipalities or any areas in the county should be represented by a County Commissioner. The Town could still attend the meetings and could make public comment. During the course of the emergency meeting there was mention about whether or not Bucoda's rejoining the Authority was based on whether it would vote for the inclusion of Napavine and Cosmopolis. There was an indication that there would be some trouble if it didn't vote that way. The councilors took that as a threat and it solidified the number of negative votes.

Mayor Carr stated he received a cell phone call and the person calling felt that if Bucoda did not vote to allow Cosmopolis and Napavine into the Flood Authority that Bucoda's membership would be objected. At the subsequent [council] meetings on the February 28 and March 5 there was a feeling that this was still hanging in the wings.

Ms. Raines stated that based on what she had reviewed, Commissioner Valenzuela told the Authority that Bucoda was withdrawing and was requesting 30 days' notice. Ms. Raines told Bucoda that they would have to apply for reinstatement. There was no bearing on how Bucoda would vote because it did not apply. She feels badly that Bucoda felt threatened but she did not think it came from anyone on the Flood Authority.

Ms. Raines stated there have been frustrations. With the membership at the table today there is 80% that will work together. Communication has broadened; trust is greater. She was disappointed to hear that Bucoda's action would be to not allow Cosmopolis and Napavine into the Flood Authority. Bucoda was not part of the original conversation - there has been no representation from Bucoda.

Mr. Vander Stoep stated he would like to see Bucoda, Napavine and Cosmopolis on the Flood Authority. He proposed that since Napavine and Cosmopolis are already vested that Bucoda could sit at the remainder of this meeting and by next meeting everyone will have signed the new ILA. If Bucoda's position is that they never left then the Authority can ignore the 30 days.

Ms. Powe stated one of her frustrations is Bucoda's lack of participation. Bucoda is on the Projects Committee and that committee has spent hours going over projects with no participation by Bucoda. The Authority agreed to the 30-day notice and now Bucoda wants to come back. She thinks everyone who has flooding issues should be represented at the Authority; she does not think that the Authority should change direction after a decision has been made.

Mr. Vannell stated when Bucoda sent the resignation letter they did not expect a reply from anyone asking them to come back. When we got that response it caused the council to reconsider. The Town reconsidered and now its vote is looked upon as a wrench in the works. He is confused by that. He also understood that Bucoda had representation at the meetings through Mark Swartout as the Town's alternate.

Commissioner Valenzuela stated this is the same question that the Authority had to reconsider once before, the vote already described at the November meeting. Eventually we all had to own up to the fact that is not the way we do business. She stated that our ILA [Interlocal agreement] is not ambiguous about members opting out of the 90-day notice. Are we going to honor our ILA or are we going to pick and choose? If we accept Bucoda's letter with the 30-day notice we are saying anyone can write a letter that changes the ILA. We need to welcome them back. Once Bucoda is at the table they will see what all of us saw, which is the wisdom of adding Napavine and Cosmopolis.

Ms. Fund spoke to Bucoda's thought of being represented by a county commissioner. She felt that each jurisdiction needed its own vote. The 30 days in the letter made her think that Bucoda wanted to get out fast. She thought Mr. Vander Stoep's suggestion was a good one and if the Authority went that route the membership issue could be rectified at this meeting.

Commissioner Averill stated county commissioners are nominated by an area to run but the entire county votes for all the commissioners. Counties have no authority over any city except for health. From a land use perspective, the county has no authority over a city. Cities need to defend themselves and express their needs. Originally the Flood Authority did not include Bucoda because the Authority was only including cities on the main stem. Bucoda's Thurston County commissioner argued to include Bucoda. Napavine and Cosmopolis made a compelling case that they should also be at the table. He is concerned that the reason for Bucoda to come back would be a condition that Napavine and Cosmopolis are not allowed.

Ms. Powe stated when the flood control zone district was discussed it would include 5 members. One reason it fell apart was because there was disagreement that 5 members would work, that the membership needed to be larger. The issue of process has been brought up many times. The Authority needs to stick to the process, the ILA process which includes Roberts Rules of order, consensus and 2/3 vote. When the Authority talked about the 30-day notice for Bucoda there was no disagreement and that means there was consensus. On a certain date Bucoda's membership would be over and the Authority would recognize Napavine and Cosmopolis. Now the Authority is being told to ignore consensus and go with the 90 days. We have to pick one or the other. She would like everyone to be at the table and she liked Mr. Vander Stoep's solution.

Mr. Cook stated he has been a member of the Authority since its inception. To the best of his knowledge there was only one petition that was denied and that was the Quinault Tribe and that was because they had no physical location in the basin. When Oakville petitioned and was accepted, Mr. Cook thought it was an open enrollment and he was willing to go to all the jurisdictions - Elma, Cosmopolis and others on the river and tell them it was open enrollment. He was told that the Authority was getting so much done and to expand membership would complicate things. He is afraid that Bucoda voted the way it did because it did not have all the information. Only through dialogue will we come to consensus and what is best for everyone.

Mr. Estes stated he was impressed that there was consensus for Napavine and Cosmopolis to join. He believes anyone who floods should be on the Authority and that Bucoda, Napavine and Cosmopolis should have a seat at the table. He thought Mr. Vander Stoep's solution was a good one.

Mr. Thompson discussed this issue with the Oakville Council. They felt there is something beyond the fact that when the whole body is working together and then suddenly there is one jurisdiction that wants out and two that want in.

Mr. Pinn stated the phone call was disturbing. The Flood Authority's challenge is to get things done. The papers are going to say that membership is the priority and that is not good. He believes Napavine should have its own voice; he will continue to be a member unless he is told to leave.

Mr. Vander Stoep made a motion that the Flood Authority recognizes that Napavine and Cosmopolis are completely vested and Bucoda will be considered a member by the next meeting. Ms. Powe seconded.

Thumbs showed 7 to 2 in favor of the motion.

Ms. Fowler asked that discussion continue to try to reach consensus. She attempted to summarize what she thought she was hearing. One issue is Bucoda's 90-day withdrawal period, notwithstanding the withdrawal letter or the rescinding of that letter. Is Bucoda a member and their membership was never terminated? She said that some viewed it be their choice to opt into a shorter time period; their time period had lapsed when everyone else agreed to add Napavine and Cosmopolis. She understood from what she heard today that there are different legal opinions about Bucoda's request to rescind.. She did not know if Cosmopolis and Napavine could participate as ex-officio members; she did not think that option could be offered today without the two cities considering this as a further option. She then reminded everyone that there are three separate questions that the Flood Authority was considering: What is Bucoda's status? Where are we on the Napavine and Cosmopolis question? How do we deal with anyone else wanting membership?

Mr. Frank Chestnut, Cosmopolis, stated he has learned that whatever has been done can be undone. He has not heard anyone object to Bucoda, Napavine or Cosmopolis sitting at the table. The document [the ILA] itself is frustrating it. There is no express number of participatory members on this board. In that case, there is no intellectual sense to deny Napavine and Cosmopolis. There was one denial and that was the Quinault who has no jurisdiction on the main stem. Napavine and Cosmopolis do reside on the main stem. He could see there was an implied threat against Bucoda. If he sensed there was an implied threat against his city, he would make a public spectacle to make sure it disappeared. He stated the Flood Authority needs to reestablish the basis on which the Board was founded and that was trust. In Cosmopolis there is a vested interest in this group; whatever the Authority does or does not do will ultimately fall at its door. If the Authority is going to deny one entrance because they have no jurisdiction on the main stem then he challenged it to omit Cosmopolis. It makes no sense to deny Cosmopolis and Napavine.

Commissioner Valenzuela stated the practical effect of the motion is to change the ILA and we do not have the signatures to change it. Our ILA leaves no ambiguity that Bucoda remains a member. We need to use our ILA as an operating document. Mr. Vannell's vote was the only vote in favor of adding Napavine and Cosmopolis. The only reason Bucoda voted the way they did is they understood a

condition of membership was about Cosmopolis and Napavine and their reaction was understandable. That can be fixed and it should be fixed.

Mr. Pinn stated regarding trust, he does trust what Commissioner Valenzuela said about changing Bucoda's mind. We may be fighting upstream when we don't need to be. We need to trust the process.

Mr. Vander Stoep stated if Bucoda had not voted twice, including after the withdrawal to say 'no' to Napavine and Cosmopolis, it would not change the Authority's position but it might change its level of trust. His motion, within 30 days, would have everyone here as members and that is his goal. By not passing the motion we are keeping two members out and trusting that maybe things will change in the future. If the motion is not accepted, Bucoda will have to vote again. On the legal side, everyone has to sign and everyone has signed except Grays Harbor County. Legally they did because their resolution states they approved the second addendum adding Napavine and Cosmopolis and recognizing the withdrawal of Bucoda and the Tribe. The Commissioner does not have the authority not to sign it. The policy was passed by the County Commissioners and signed by all the Commissioners. He believes the Authority is within its legal right to say Grays Harbor County has signed also and we have all the signatures we need. Everyone will be a member next month.

Ms. Powe disagreed with Commissioner Valenzuela regarding the issue of how Bucoda voted on Cosmopolis and Napavine. It is about the 30 days that would terminate their membership. Everything else happened after that.

Ms. Fund stated she would work with her council and city manager to get Bucoda back in as soon as Centralia can pass a resolution to make that happen.

Commissioner Valenzuela stated the conversation on February 16 was mostly about how we actually sign the ILA since all the members had agreed. She recalled that she said Bucoda was still a member and asked if they should still sign. Thurston County included in its resolution a statement of fact that turned out to not be a fact, and that was that Bucoda no longer wanted to be a member. She wants to go back to the other commissioners. Reading the resolution does not inform them of the situation. We do not have a choice. We have to abide by what is in our ILA. We must comply with the basic ways of behaving around this table.

Commissioner Averill stated there is a problem with interpretation of the definition. We had long discussions that the Flood Authority had gotten away from the concept of consensus and was running to a vote too quickly. At the meeting you are talking about, there was no objection so that means there was consensus. Consensus cannot be interpreted in different ways when it is to your advantage.

Ms. Fowler read from the bylaws. She stated the problem is that membership in the ILA requires unanimous agreement to change it. She does not know if there is a way to move forward. She asked if the group could reach consensus, or should it be tabled or left unresolved.

Mayor Carr stated there is nothing in the February meeting notes. January's notes state that Commissioner Valenzuela stated that Bucoda wanted to withdraw; there is no mention of time.

Mr. Vander Stoep made a motion under the 60% rule that the Flood Authority treat Napavine and Cosmopolis as full members of this authority. Mr. Cook seconded.

Commissioner Valenzuela stated the only way the Board can add new members is with a new ILA and everyone has to sign. Mr. Vander Stoep stated the motion is to interpret the rules and consider them as vested members. Commissioner Willis asked what 'vested' means. Mr. Vander Stoep stated they have fully active rights as members.

Commissioner Willis stated she is in favor but she would abstain because Grays Harbor County has already passed a resolution.

The motion passed.

Mr. Vander Stoep made a motion that members of the Flood Authority individually and cooperatively move expeditiously to sign the ILA so Bucoda can vote at the next meeting. Commissioner Averill seconded.

Commissioner Willis stated she would vote in favor but with concerns because Bucoda is still a member. They are sitting at the table today and she disagrees with the need of a motion. She would like resolution on this so the Authority can get on with flood mitigation.

Commissioner Valenzuela asked what the implications of the motion would be. A motion just carried that added Napavine and Cosmopolis but Bucoda does not agree with that. She asked if there will have to be an ILA to add Napavine and Cosmopolis and another ILA that adds Bucoda back in.

Mr. Vander Stoep stated there is nothing else for Thurston County to do regarding Napavine and Cosmopolis. If this motion passes, another ILA will be to add Bucoda.

Commissioner Valenzuela stated Thurston County erroneously signed a document omitting Bucoda. That needs to be redone according to the commissioners' direction but those that signed omitting Bucoda did so in error. They were still members.

Mr. Vander Stoep stated once they vote and sign there is legal authority. If you want to add Bucoda you need to sign again.

Mr. Vannell stated the Tribe had to abide by the 90-day request. Bucoda's 90 days was not. Mr. Vannell would like Napavine and Cosmopolis on the Flood Authority and he welcomed any help that Commissioner Valenzuela or anyone could give him. His fear is that without an explanation this could still result in a letter from the town council.

Mr. Vander Stoep stated no one asked Bucoda to resign. The good news is nothing will be lost and Bucoda will be a full member at the next meeting.

Commissioner Averill stated when the Tribe submitted their letter there was no stipulation for the time so it reverted to the ILA requirement of 90 days. When the original ILA was drafted there was a belief that the Authority would be committing money to projects for which it would have obligations. The 90 days was put in for contractual obligations if anyone wanted to withdraw. The letter that Bucoda provided asked for 30 days; there was no objection and we took them at their word.



Commission Averill stated we already have resolutions, except for Grays Harbor County. With the passing of the motion Napavine and Cosmopolis are now members and it is now a matter for Bucoda to decide whether or not they want back in. He wants them back in as soon as possible but several of us did not include Bucoda in the new ILA and they need to be put back in.

Ms. Powe stated the financial obligation was the reason for the 90 days in the ILA. Bucoda sent a letter asking for 30 days and the Authority honored your request. Now Bucoda wants to come back. The Authority is glad, but Bucoda is blaming the Authority because it now wants 90 days so it can change its mind. We are wasting time on this discussion when there was a change of heart.

The Chair called for the question: all in favor of adding Bucoda back in after signing a new ILA with their inclusion. The motion passed with Commissioner Valenzuela abstaining, stating Bucoda is already a member.

## **7. Staff Updates**

### *a. Legislative session*

Ms. Fowler stated the end of the session was reached without a budget, and the legislature was now in a special 30 day session. The legislature is still considering the jobs package, including potential funding for the Chehalis Basin.

### *b. OFM Contract*

Ms. Fowler followed up with Keith Phillips and circulated a memo on Wednesday. The OFM contract includes \$40,000 for the fish enhancement study and \$4,000 for the audit (which came in at \$2600), and a modification on some dates in the contract. One of those modifications is for Mr. Karpack to model some things and they want him to have time to do that.

Commissioner Averill made a motion to adopt the OFM contract; Ms. Fund seconded. There was no objection and the motion carried.

### *c. Audit*

The audit was completed and it will be finalized on March 28 at the Lewis County Courthouse. There has not been a draft report sent out at this time.

### *d. Fisheries Impact and Enhancement Studies*

Update materials were distributed late yesterday. Anchor is working hard to incorporate all of the comments. Mr. Hueckel will make sure the enhancement report is sent out.

### *e. Early Warning System*

WEST has visited, cleaned and maintained all sites as needed during the fall and winter periods. The Contrail website is monitored continuously and access information was provided on the memo of March 12. The memo described maintenance and operations, upgrades and outreach. Planned for the future are routine monitoring and maintenance, and the installation of the remaining gages upon approval for site permits.

## **8. Expenditure Review**

Mr. Johnson reported the Authority is within budget. There is \$111,704 in unencumbered funds. He asked if there were questions. There were none.

#### **9. Confirm Next Meeting**

The next meeting will be on April 19, 2012 in Napavine, the location to be determined.

Ms. Powe announced that as of March 16 at 9:00 am she would no longer be a member of the Flood Authority due to a conflict. She stated Chad Taylor would be representing the City of Chehalis.

Chairman Raines thanked Ms. Powe for her contribution to the Flood Authority and wished her luck in her new endeavor.

Commissioner Averill stated the Authority had a difficult discussion regarding membership and he welcomed both Cosmopolis and Napavine. He wanted Bucoda to know this was not directed at Bucoda personally. The Authority understands that the river has caused the town a lot of problems. Mr. Karpack just did a study for Bucoda and the Authority will continue to look at other things. That is the function of the Flood Authority.

#### **10. Adjourn**

The meeting adjourned at 3:51 p.m.